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ACTION UC-16

INFO	LOG-00	AF-01	AID-01	ARA-01	CIAE-00	SMEC-00	OASY-00
	DODE-00	EAP-01	EB-01	EUR-01	H-01	TEDE-00	INR-00
	LAB-01	L-01	ADS-00	NEA-01	NSAE-00	NSCE-00	OIC-02
	OIG-04	OMB-01	PA-01	PM-00	PRS-01	P-01	SNP-00
	SP-00	SR-00	SSO-00	SS-00	STR-01	TRSE-00	T-00
	USIE-00	SA-01	PMB-00	PRME-01	DRL-09	G-00	/048W

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FM USMISSION USUN NEW YORK

TO SECSTATE WASHDC IMMEDIATE 8450

INFO UN SECURITY COUNCIL COLLECTIVE PRIORITY

AMEMBASSY THE HAGUE PRIORITY

**CONFIDENTIAL SECTION 01 OF 02 USUN NEW YORK 003437**

E.O.12356: DECL:OADR

UAGS: PREL, PHUM, UNSC, RW, UN, UK, FR,

SUBJECT: RWANDA - CRIMES TRIBUNAL - MEETING WITH UN  
LEGAL COUNSEL

REF: ROSENSTOCK (USUN)/EBLOOM AND BRASHKOW (L/UNA)  
-- TELECONS

1. CONFIDENTIAL - ENTIRE TEXT.

2. SUMMARY: UN LEGAL COUNSEL HANS CORELL CONVENED  
MEETING OF P-4 LEGAL ADVISER PM 4/18 TO DISCUSS WHERE WE  
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GO FROM HERE ON RWANDA. US DISTRIBUTED, ON INFORMAL  
BASIS AND FOR PARTICIPANTS ONLY, TALKING POINTS AND  
PROPOSAL FOR AMENDMENT TO YUGO TRIBUNAL STATUTE. WHILE  
INDICATING THAT HE SAW MYRIAD OF DIFFICULTIES IN ANY  
APPROACH TO THE PROBLEM CORELL NOTED THAT SYG'S THINKING  
SEEMED CLOSE TO THAT OF US. UK AND FRENCH INDICATED  
CONTINUING PREFERENCE FOR LEGALLY SEPARATE TRIBUNAL FOR  
YUGOSLAVIA AND RWANDA ALBEIT WITH SOME COMMON FACILITIES

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AND PERSONNEL. END SUMMARY.

3. UN LEGAL COUNSEL CONVENED MEETING OF P-4 LEGAL ADVISERS TO DISCUSS WHERE WE GO FROM HERE ON RWANDA. HE NOTED THAT COMMISSION ESTABLISHED BY SYG PURSUANT TO SC RES 935(1) HAD BEGUN MEETING IN GENEVA AND WAS LIKELY TO GO TO RWANDA ON OR ABOUT AUGUST 22. HE ALSO NOTED THE STATEMENT BY THE RWANDA GOVERNMENT FAVORABLE TO TRIALS AT THE INTERNATIONAL LEVEL AND AUGUST 10 STATEMENT BY THE SC PRESIDENT TO THIS END.

4. USUN LEGAL ADVISER DISTRIBUTED COPIES OF US TALKING POINTS AND PROPOSED AMENDMENTS TO STATUTE OF YUGO TRIBUNAL.

5. CORELL SAID HE SAW FOLLOWING OPTIONS: A SEPARATE TRIBUNAL ESTABLISHED UNDER CHAPTER VII, A SEPARATE TRIBUNAL ESTABLISHED AT THE REQUEST OF RWANDA UNDER CHAPTER VI WHICH COULD EITHER MEET IN OR OUTSIDE RWANDA, SOMETHING LIKE THE US PROPOSAL, RWANDA NATIONAL COURTS JUDGMENTED BY OUTSIDE JUDGES.

6. US MISSION LEGAL ADVISER NOTED REASONS WE PREFERRED CONFIDENTIAL

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STATUTE OF YUGO TRIBUNAL AND THAT ANYTHING UNDER CHAPTER VI WOULD NOT GIVE RISE TO THE SAME OBLIGATIONS OF COOPERATION ON THE PART OF OTHERS. CORELL ACKNOWLEDGE LATTER POINT, AND NOTED THAT SYG'S THINKING AT PRESENT WAS CLOSE TO THAT OF US. HE, HOWEVER, ALSO EXPRESSED CONCERN THERE MIGHT BE RESISTANCE TO A ANOTHER SUCH USE OF CHAPTER VII AND WHILE ADMITTING THAT CHAPTER VII HAD BEEN ACTIVATED RE RWANDA EXPRESSED THE VIEW THAT IT WAS NOT AS WIDELY ACCEPTED AS IN CASE OF YUGOSLAVIA.  
WILMSHURST (UKUN) EXPRESSED SIMILAR CONCERNS AT WILLINGNESS OF SC MEMBERS TO DO IT AGAIN.

7. SO FAR AS US PROPOSAL CONCERNED FRENCH SAID THEY STILL PREFERRED A LEGALLY SEPARATE ENTITY FOR RWANDA WITH ITS OWN TRIAL AND APPELLATE CHAMBERS THOUGH THEY COULD IMAGINE A HIGH DEGREE OF INTEGRATION BETWEEN THE TWO BODIES INCLUDING EVEN COMMON JUDGES. HE SUGGESTED MAIN FRENCH CONCERN WAS THAT BY JUST ADDING RWANDA TO EXISTING TRIBUNAL WE WERE PAVING THE WAY FOR A DE FACTO

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STANDING INTERNATIONAL COURT VIA THE BACK DOOR. HE SAID FRANCE WAS NOT, HOWEVER, ADAMANTLY OPPOSED TO US APPROACH.

8. WILMSHURST INDICATED PREFERENCE FOR SEPARATE COURT FOR RWANDA SAID HMG WAS "SLIGHTLY HESITANT" TO INVOKE CHAPTER VII TO ESTABLISH RWANDA TRIBUNAL AND FOUND IDEA OF TRIBUNAL ESTABLISHED UNDER CHAPTER VI WITH RWANDAN CONSENT OF SOME APPEAL. SHE SAID HOWEVER THAT HMG WAS FLEXIBLE, COULD LIVE WITH CHAPTER VII ACTION AND COULD LIVE WITH ONE LEGAL ENTITY FOR BOTH YUGOSLAVIA AND RWANDA OR TWO ALONG LINES SUGGESTED BY FRENCH. BEYOND

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WILMSHURST'S DROLL AND NOT PURSUED QUERY WHETHER WE HAD CHOSEN THE SIMPLEST WAY TO ADD RWANDA TO YUGO TRIBUNAL NO ONE COMMENTED (OR PERHAPS NOTICED) MID-STREAM CHANGES TO JURISDICTION OF YUGO TRIBUNAL ITSELF OR OTHER TECHNICAL LEGAL ASPECTS OF US PROPOSAL.

9. CORELL AND ZACKLIN EXPRESSED CONCERN AT GETTING OUT AHEAD OF THE NEW COMMISSION. THEY SAID COMMISSION WAS TO EXAMINE THE FACTS AND MAKE RECOMMENDATION AND WHILE IT MIGHT BE POSSIBLE TO EXPEDITE THE PROCESS AND EVEN ENCOURAGE AN INTERIM REPORT THEY WERE LEERY ABOUT PREJUDICING THE ROLE OF THE COMMISSION BY STARTING TOWARD CREATING AN INSTITUTION BEFORE ANY REPORT OF THE COMMISSION. ZACKLIN NOTED THAT EXPECTATION WAS FOR COMMISSION TO EXAMINE THE FACTS FIRST, THEN BE AUGMENTED BY ADDITIONAL PERSONNEL AND ONLY THEN MAKE RECOMMENDATIONS. ZACKLIN AND CORELL WERE, HOWEVER, NOT UNSYMPATHETIC TO US AND FRENCH COMMENTS THAT IT WAS NOT ADVISABLE TO WAIT FOR MONTHS BEFORE WE STARTED. WILMSHURT WAS MORE IN THE FESTINA LENTE MODE.

10. ALL CONCERNED LED BY CORELL WERE READY TO CATALOG THE DETAILS OF WHY AT THE PRACTICAL LEVEL RWANDA WOULD BE EVEN MORE DIFFICULT TO COPE WITH THAN YUGOSLAVIA.

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C O N F I D E N T I A L SECTION 02 OF 02 USUN NEW YORK 003437

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-- LEGAL COUNSEL

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